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# Reforming Children's Rights: The Criminalization of Youth at the Intersection of Schools and Juvenile Justice Systems

Nicole Carbone  
Criminal Justice  
May, 2018

Faculty Adviser: Dr. Jeffery Cohen

Essay completed in partial fulfillment of the requirements for graduation with Global Honors,  
University of Washington, Tacoma

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Approved:

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Faculty Adviser

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Date

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Director, Global Honors

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Date

## **Reforming Children's Rights: The Criminalization of Youth at the Intersection of Schools and Juvenile Justice Systems**

On a gloomy Tuesday morning in mid-September, I found myself in a van embarking on a tour of Kulani Secondary School. The van turned off the freeway and we quickly approached the isolated township—disconnected from adequate resources. Driving through these streets, I saw individuals all working towards the same goal—trying to navigate systems of oppression. I saw this in people catching the Kumbi<sup>1</sup>, the children walking to school, the individuals opening up their businesses out of shacks, and the moms washing clothes and dishes at the shared water faucets.

We pulled into a dirt driveway and through a gate towards a yellow and red brick building surrounded by fences and crowbar windows, all of which resembled a jail or prison. Located in a local township fifteen miles away from the heart of Cape Town (which sustains over 200,000 people), Kulani Secondary School is forced to implement a “Westernized” educational system with little support.

After arriving at the school, the assistant principle, Nathi, gave us a tour. We went into classrooms and immediately noticed that there were only a few textbooks per class. Learners had to share books and desks, and classrooms had an absence of teachers. Additionally, Nathi explained the issues surrounding language in the school environment. The native language in the townships is isiXhosa; however, after the third grade, the township schools are required to teach their learners in English. Due to the language barrier, learners were not able to grasp the material being presented because they did not understand the context and meaning of the information

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<sup>1</sup> Kumbi's are licensed minibuses that serve non-white, low-income individuals that reside in townships. Because the townships are excluded from public transportation, Kumbi's fill the need of transportation from the townships into the city for commuters. They seat around 16 individuals, but cram as many people into them and make random stops whenever someone calls one out, creating an unpredictable ride time.

being taught. Because of that, the learners would answer questions back in isiXhosa to the teachers and talk to other students in isiXhosa in an effort to make sense of the material. Not only was this a struggle for the students, but it was a struggle for the teachers as well.

Furthermore, there were only four bathrooms for 1500 students, two of which were kept locked by the government. Nathi explained living her day-to-day reality (she, too, faces her own safety issues as a woman) in the township is hard enough, but when you have learners who are facing murder, rape, abduction, and abuse of family members, close friends and classmates, it is really difficult to stay positive and strong for the learners. She explained there are only four school counselors for their whole district, resulting in extremely long wait lists for the learners during times of crisis. From my time spent at Kulani Secondary School, I felt and heard the frustration from the staff and learners regarding the current education system they are required to follow. The education system in the township schools is stuck in a cycle of colonization because English culture and standards are what South Africa adopted for their public schools, and that is the curriculum being taught to the non-white children in townships.

In 1995, Nelson Mandela said, “There can be no keener revelation of a society’s soul than the way in which it treats its children” (Nelson Mandela Foundation, 2018). Yet, these learners have no rights present in their schools. They have a system that embodies Constitutional rights, which are not being implemented, and therefore, are denied essential resources to promote education and learning.

The example provided above represents the ever-present realities for non-whites in South Africa, due to the legacy of Apartheid rule. Institutionalized systematic barriers leave people with no opportunity to escape from the oppressive systems that are still very vivid today. The same can be seen in the United States, with low socioeconomic and minority children attending

very substandard schools with a variety of ineffective security measures put in place, distracting from a successful learning environment.

Juvenile justice systems have come to rely on the criminalization and institutionalization of youth, as seen through the school-to-prison pipeline, a punitive approach that disproportionately impacts youth of color and those living in poverty. This has resulted in increasing numbers of individuals in the criminal justice system as youth and later in life, while society places negative labels and stigmas on them, thus isolating them from the rest of society. As inequality in children's rights leads to inequality in the juvenile justice system, a vicious cycle continues. Thus, the United States should be compelled to robustly recognize and identify children's rights to ensure they are not violated and promote equality among all ethnic groups in juvenile justice systems.

To explore these issues, a literature review first clarifies the consequences youth face in education and juvenile justice systems, along with context surrounding South Africa's history of children's rights. Following that, research methods conducted in Cape Town, South Africa and the South Puget Sound region are explained. Lastly, the findings are discussed and concluding remarks around how one might implement juvenile policy change in the South Puget Sound region are made.

## **Literature Review**

### ***Mass Incarceration***

Mass incarceration is a broad term used to describe the expansion of the overarching criminal justice system as a whole and the substantial increase in the number of incarcerated individuals. "Among industrialized nations, the United States is an outlier, incarcerating at more than four times the rate of Britain and China and more than fourteen times the rate of Japan"

(Kilgore, 2015, p. 11). The United States has become the world's leading incarcerator with approximately 2.3 million people locked behind bars (ACLU, 2018). While the statistics measure the rate of mass incarceration, they do not measure, nor do they reflect, the number of families, friends, and communities negatively impacted by this larger institutionalized system present in the United States.

Furthermore, "Mass incarceration is actually one of this country's key strategies for addressing problems of poverty, inequality, unemployment, racial conflict, citizenship, sexuality, and gender, as well as crime" (Kilgore, 2015, p. 1). One might wonder what caused the United States to start incarcerating at such high rates. There are many answers to this question involving different perspectives including the economic, political, and philosophical lens (Kilgore, 2015). During the 1970s, there was an increase in crime that may have explained the initial increase in the use of incarceration. However, since the 1990s there has not necessarily been a rise in crime, but rather a change in policies and laws making a wider variety of crimes punishable by incarceration and mandatory minimum sentences under a 'get tough on crime' approach. Alexander (2012) goes further to explain, "The term *mass incarceration* refers not only to the criminal justice system but also to the larger web of laws, rules, policies, and customs that control those labeled criminals both in and out of prison" (p. 13).

When looking at the victims of this detrimental cycle, they disproportionately include people of color and people living in poverty, both groups that are typically targeted by law enforcement. Kilgore (2015) stated, "While African Americans make up only about 13 percent of the U.S. population, by 2012 Blacks constituted nearly 40 percent of those in prisons and jails" (p.14). This dynamic also has implications for Black youth, who "are increasingly likely to have a parent in prison – among those born in 1990, one in four black children had a father in

prison by age 14” (Heitzeg, 2009, p. 6). With so many children growing up without a father figure present, they lack the support and guidance, resulting in poor school performance, weak peer relationships, and isolation. Alexander (2012) explains, “For black youth, the experience of being “made black” often begins with the first police stop, interrogation, search, or arrest. The experience carries social meaning—*this is what it means to be black*” (p.199). These issues have become institutionalized and normalized, resulting in the continuation of this detrimental cycle.

### ***School-To-Prison Pipeline***

One symptom of the criminalization of youth is the school-to-prison pipeline that has evolved over the last twenty years. President Nixon declared the War on Drugs in 1971 with President Reagan’s administration further amplifying the declaration during the 1980s (“A Brief History of the Drug War,” 2018). This not only resulted in the implementation of harsh policies regarding drugs and crime, but also “to crack down on the racially defined ‘others’—the undeserving” (Alexander, 2012, p. 49). Since that declaration, there has been a shift to zero tolerance policies that have been translated to school districts, creating an intersection of education and the juvenile justice systems. “...By 1993, many schools began using the term ‘zero tolerance’ as a philosophy that mandated the application of severe predetermined consequences for unsafe or unacceptable student behaviors” (Mallet, 2015, p. 21). From the evolution of these policies, there has been a variety of security measures put in place at public schools, including cameras, metal detectors and school resource officers, typically limited to schools with high populations of students of color.

When examining how prevalent this issue has become, Mallett (2017) stated, “Of the 49 million U.S. students enrolled in the 2011-2012 academic year, 3.5 million students experienced in-school detention, 1.9 million students were suspended for at least 1 day, 1.6 million students



were suspended more than one time, and 130,000 students were expelled” (p. 564). The school-to-prison pipeline disproportionately targets youth who share two things in common: marginalization and vulnerable status. Patterns of disproportionality exist across race, socioeconomic status, disabilities, traumatizing events, and the lesbian, gay, bisexual, transgender and queer (LGBTQ) community (Mallett, 2017).

While all groups affected by the school-to-prison pipeline are important, for the purposes of this study, the focus is on black youth. Mallett (2017) elucidated, “More specifically, African American students, particularly males, are 3.5 times more likely to be suspended or expelled than their peers, with one in five African American male students being suspended out of school for at least 1 day during the 2012 school year” (p. 573). Actions that were once considered disciplinary issues have evolved over time to crimes, resulting in harsh disciplinary consequences, such as arrest for minor, non-criminal issues (Heitzeg, 2009). Importantly, behaviors of youth are not dependent on their race, so this disproportionate impact on young black males “must be explained by differential enforcement of zero tolerance policies...83 percent of the nation’s teaching ranks are filled by whites, mostly women, and stereotypes can shape the decision to suspend or expel” (Heitzeg, 2009, p. 12). Typically, youth involvement with the school-to-prison pipeline begins in the classroom, implying that our unconscious bias under the educational umbrella is perpetuating the issue.

The magnitude of the school-to-prison pipeline is significant, thus indicating that the policies and procedures put in place have become institutionalized and normalized. “When looking at the impact of the school-to-prison pipeline, it is difficult to draw any conclusion other than we have failed many of these children and adolescents” (Mallett, 2017, p. 580). Education is

essential in adolescent development and to survive in society, but society has continued to deny these opportunities to marginalized youth of color.

### ***Why Cape Town, South Africa***

South Africa is a unique country because of its Apartheid and post-Apartheid history. Apartheid began in 1948 and “called for the separate development of the different racial groups in South Africa” (“A History of Apartheid in South Africa,” 2017). People were classified into distinctive racial groups, causing separation in housing and employment, leaving black and other non-white communities with limited opportunities and resources. Hundreds of thousands of individuals were removed from their homes and communities in the city and displaced to underdeveloped, geographically isolated informal settlements, known as townships. They still reside there today, even though Apartheid ended in 1994, and South Africa has been a democracy for 23 years. This new democracy was founded upon the basis of student-led protests and anti-Apartheid marches, which created the spaces for youth to express their collective concerns and ensure they were being addressed.

South Africa is a country of struggle with deeply embedded systemic racism and discrimination. Despite these conditions, South Africa is producing children who display positivity, resilience, and hope because they are fighting for their future and their country, as they have learned their voices and opinions matter. As Knaus and Brown (2016) stated, “South Africa is a nation-state in which 8% of the population exercise power and privilege over 92% of the population” (p.11). The white population is the 8% that controls the majority of South Africa’s entire population, which is primarily people of color. While these statistics are shocking to some, South Africa’s reality remains one rooted in corruption, inequity, and conflict over vital resources based upon its Apartheid past.

Despite South Africa's history of racism and discrimination, "South Africa was an early active leader in the recognition of children's rights in the international community" (Binford, 2015, p. 334). In 1924, the Declaration of the Rights of the Child was formed, and later in 1959 the Declaration was recalled and "incorporated both the United Nations Charter, and the universal Declaration of Human Rights, ensuring that everyone understood that the rights it enumerated supplemented children's core rights as human beings" (Binford, 2015, p.335-336). However, during Apartheid, the rights of children of color were intentionally violated by the White minority government. Children in South Africa during the time of Apartheid faced systematic barriers, including overcrowded and unsanitary living conditions in shacks made out of tin with no heat, inadequate education, high levels of crime such as murder, rape and abduction, diseases, and a lack of food and clean water (Knaus & Brown, 2016).

In response to these issues, while the Republic of South Africa was drafting their constitution in 1996, "it was the first time that children's rights were robustly and comprehensively recognized in the express language of a nation's constitution" (Binford, 2015, p.334). Specifically, section 28 of their Bill of Rights in the Constitution contains the children's rights section, which includes a right, "to family care or parental care, or to appropriate alternative care when removed from the family environment; to basic nutrition, shelter, basic health care services and social services; and to be protected from maltreatment, neglect, abuse or degradation" (South Africa Constitution, 1996). In addition, South Africa's Bill of Rights also includes specific sections on education, housing, political rights, environment, and health care.

While much is still to be done, South Africa's Constitution is a radical step forward for the country. Sachs (2016), a former judge of the Constitutional Court explained, "It's another country, and even with all its imperfections and grotesqueries, a hugely better one. And we have

a Constitution that allows for the further transformation necessary for thorough-going equalization of life chances for all” (p. 323). South Africa’s vocal youth continue the demand for change to get the political and economic support they need. This is the challenge that now faces the people of South Africa. Sachs (2016) is optimistic that by providing South Africa with a rights-based Constitution, which is unique to their country, the Constitution will further aid them in the process of fostering change and innovation for their future as individuals and a country.

### ***Children’s Rights***

The first recognition of children’s rights appeared in 1924 with the Declaration of Geneva, which specifically identified and brought light to children’s rights. Following that, in 1959 the Declaration of Children’s Rights was adopted. Under this, “children were recognized as subjects, rather than objects, with rights to non-discrimination; adequate nutrition, housing, and medical care; a name and nationality; social security; play and recreation; and education” (Binford, 2015, p.336).

Through the progression of time, documents continued to be built upon, leading to the United Nations Convention on the Rights of the Child (CRC). The convention began drafting in 1979 with the purpose of comprehensively recognizing the rights of children internationally (Binford, 2015). The United Nations Convention on the Rights of the Child (1989) defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (Part 1, Article 1). The CRC is focused around four primary sections of children’s rights, commonly referred to as the four p’s, which includes protection, provision, participation, and prevention (“Children’s Rights: International Laws,” 2015).

The human rights treaty, adopted in 1989, “eventually became the most widely ratified human rights treaty in the history of the world. In fact, every country in the world has ratified it except the United States” (Binford, 2015, p.338). There are different theories as to why the United States has not ratified the CRC. One concern seen throughout different literature is the CRC “undermin[es] the U.S. system of federalism” (Blanchfield, 2013, p.7). This means that issues once addressed by the individual states would now be taken out of the hands of each state and addressed by federal law. Another reason supporting the lack of ratification provided by Blanchfield (2013) is the concern regarding parent’s rights. There is a fear that if the treaty were ratified, the CRC or the United States government could control how children are raised, thus removing the power from the parents. However,

Cara Baldari a director at the nonpartisan children’s-advocacy group First Focus, asserts that when a society doesn’t come to an official consensus as to what is essential for children, children end up going without goods that might be critical to their economic mobility (Rothschild, 2017, paragraph 6).

As Rothschild (2017) highlights, the United States does not have a robust, agreed upon way of treating children. With the absence of that, the United States seemingly lacks motivation surrounding children’s rights. If the CRC were to be ratified, it would hold the United States accountable to children’s rights because the CRC Article 44 requires the submission of reports to the CRC committee (Bartholet, 2011). Also, “the CRC gives children equal status with adults as rights-bearing persons” (Bartholet, 2011, p. 84) meaning children’s opinions would be equally considered in legal situations.

The issues addressed throughout this literature review are globally relevant because they all manifest themselves (in some form or another) all across the world. Parallels between

institutionalized racism and treatment of youth can be seen throughout many different cultural histories. From my experiences both in Cape Town, South Africa and Tacoma, Washington, I found several similarities between the cultural histories of segregation and treatment of children. I also found unique approaches to breaking the cycles discussed above, which led to the following research questions:

RQ 1: What impact, if any, has the creation of the rights-based Constitution in South Africa had on that country and in particular for South African youth?

RQ 2: How could the example of South Africa's rights-based Constitution inform juvenile justice policy in the South Puget Sound region?

## **Methods**

### ***Research Setting***

#### **Cape Town, South Africa**

During the summer of 2017, I had the opportunity to study abroad in Cape Town, South Africa for just over three weeks. I decided to choose this as a context for my research because of the transformation South Africa has made to a multiracial democracy, producing a rights-based Constitution, while still experiencing institutionalized racism. While in Cape Town, South Africa I spent most of my time in Philippi Township, where I volunteered with a non-governmental organization (NGO) called Ukunika Abantwana<sup>2</sup>, a community-based organization that employs local community members who develop trust through shared experience with those they serve.

Ukunika Abantwana has created a vision highlighting the empowerment of youth, seen through education programs, in an effort to make systematic change. At this NGO, learners get to

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<sup>2</sup> In conducting my research both globally and locally, I used pseudonyms throughout this paper for confidentiality purposes for my participant observations, interviews, and names of organizations. Albie Sachs is the only exception to this because he is a well-known influential individual in South Africa whose work, thoughts, and opinions are published.

participate in educational programs that add a holistic approach to ensure they are aiding in the navigation of individuals' lives in the present and future. Through their programs, Ukunika Abantwana is making efforts to break down the barriers of inclusion by recognizing and challenging issues of attitudes, curriculum, and expectations. They offer seven active programs, beginning with infants and continuing all the way through college students. While volunteering with Ukunika Abantwana, I was able to observe and engage in all of these different programs, but the ones I found most beneficial for my research were the early childhood development center (ECD) and the primary school program held at a local township school after hours. These two programs were the most beneficial because they allowed me to observe the social problems that townships face, such as violent crime, substance abuse, lack of education and resources, diseases, and environmental and structural issues.

At Ukunika Abantwana I observed Mthobeli, Ntombi, and Zanele, all whom are community members of Philippi and work at this NGO. Specifically looking at the early childhood development center, these are centers where a principal, who is typically the homeowner, will open up their shack for infants and toddlers to come to during the day. These are very similar to pre-schools in the United States. The ECD centers have no heat or running water, resulting in the winters being extremely cold while the summers are extremely hot and no accessibility to bathrooms.

When I went to Utu Educare, an ECD center located in Philippi, I was nervous and apprehensive to go inside because I was unfamiliar with my surroundings and had no idea what to expect. As I walked through the front door, there were about 40 toddlers downstairs with one adult and about 40 infants upstairs with one adult. The structure of this particular shack was not up to South Africa's fire code because the upstairs was completely unstable. Ukunika

Abaantwana was trying to raise money while I was there for Utu Educare to fix the structural issues because, otherwise, the principal was going to face legal charges for operating an ECD center in an unstable structure, potentially putting children in harm's way. As I was walked up the stairs, I noticed how extremely steep and long they were, and I had to duck my head to avoid hitting it on a post. Once upstairs, the flooring was a thin piece of plywood. It was far from sturdy enough to support the many children and the commotion upstairs. Ntombi ran a session with the toddlers teaching them about safe and personal space along with what to do in an emergency when they are on the streets by themselves. Murder, abduction, and rape are all very prevalent issues in the townships. Because of that, this NGO educates young children on the basics to help protect them as best as possible. During my time at this ECD center, it made me realize the things I have taken for granted growing up because when I was that age, I was not learning about those issues and how to protect myself in that kind of way.

My time spent at the after-school program held at the primary school was essential to my research because it was there that I was able to observe how South African youths' right to education is not being fulfilled. These children, third and fourth graders, were learning in English, which is not their native language and were provided educational material that was not related to their cultural context. For example, a book I was helping the fourth graders read was about the ocean and yachts. Even though their township is about 15 miles from the ocean, the majority of these children had never been outside of their township. Therefore, as explained to me by the principal, they had no connection to what they were reading because proper resources were not provided. Furthermore, youth have a right to basic nutrition, yet the meal served at school during lunch hour is typically the children's last meal for the day until they come back to school the next day. An example I witnessed was that the NGO I was with provided apples



during their after-school programs and these children would eat every single piece of the apple including the stem and seeds and would beg for another one like it was a bag of candy. Also, none of the children's school uniforms properly fit them; they were typically way too small and completely worn out.

During my time in South Africa, I was able to gain new perspectives on the purpose of education for South African youth who are facing many social problems. Engaging in conversations with employees of Ukunika Abantwana (that grew up in Philippi Township) about their understanding of their Constitutional rights and their ability to freely voice their concerns about structural issues was very influential. Moreover, seeing the fragmented education system with my own eyes and the unfilled rights of South African youth made me understand the further transformation South Africa must make in order to sustain long lasting change.

Growing up in a small, affluent community, I was not subjected to the problems that plague most of the world from poverty to murder to underperforming schools. My community seemed to be free from all of the ills of the world. It was not until I became old enough to understand the complex issues and events on the next level that I realized my interest in the criminal justice system and more importantly, the victims of the detrimental cycles. Due to my childhood upbringing and sheltered life, I acknowledge that the lens with which I view these institutionalized structures is skewed. These have never directly impacted my life, but rather I have seen and heard different stories and experiences from my volunteer experience and my study abroad.

I recognize that my presence as a white woman from the United States potentially influenced my interactions and conversations with the children in Cape Town, South Africa.

Because of this, I became a part of the research, and I think this altered my findings by limiting my ability to gather authentic in-depth information because the residents saw me as a privileged outsider. The individuals I was engaging with did not personally know me or have the opportunity to gain trust in me, due to time constraints. This provided a space for me to understand my place and purpose while being in the township, and I was transparent about that while engaging with individuals. Furthermore, I impacted the research through my involvement in deciding what areas to research, who to examine, what specific research questions to ask, and how I interpreted data collected in Cape Town, South Africa and Tacoma, Washington.

### **Tacoma, Washington**

Tacoma, Washington was picked as a research setting because, as discussed in the literature review, the United States lacks a uniform standard of enforcing and carrying out children's rights. This nation has very high incarceration rates and juveniles are consistently being funneled into the juvenile justice system, due to the school-to-prison pipeline. In particular, the South Puget Sound region in Washington was chosen because I am personally familiar with the location. When I returned home from Cape Town, South Africa, I realized many of the inequities that are present there are also present in my neighboring hometown of Tacoma, Washington. This made me wonder what I could utilize from my experience in South Africa to promote change within my own community.

Hill Juvenile Detention Center, located in Tacoma, Washington, was picked as a focus of research because I have been volunteering with their diversion program for the last year.

Through my volunteer work, I have had the opportunity to gain hands-on-experience with the juvenile caseload. The goal of diversion is to support youth and their families by providing an alternative to the juvenile justice system in response to minor offenses.

The diversion program I volunteered at is held after school hours in the juvenile detention center's schoolhouse, typically ranging from 6:00 pm to 9:00 pm. During the normal school day, there is a high security presence, but because this program is held after hours there are no officials on duty during diversion. The complex of Hill Juvenile Detention Center is directly off of the freeway with many direct bus routes for easy accessibility. Once on the property, there are many different buildings serving specific aspects of the juvenile justice system including the detention center, the detention center's schoolhouse, the administration, and the Pierce County juvenile courthouse. To access the building diversion is held in, one has to press a button outside the entrance to buzz an official to open the door, go through a metal detector, provide identification, and sign in. Upon entrance, the first thing one might notice is the surveillance system and radios that are used for communicating throughout the complex of Hill Juvenile Detention Center.

Program volunteers and families get separated into two separate rooms. The program is run by volunteers from the community with different backgrounds across age, ethnicity, gender, education, work history, and interests, all in an effort to provide a diverse Community Accountability Board (CAB). The families receive information about diversion and fill out paper work, while the volunteers get assigned particular cases. Each CAB consists of three volunteers: a leader, note taker, and observer.

Once assigned a case, a CAB will split into their own room, which is a classroom or an official's office that has a table and multiple chairs. At this point, the CAB member's look through the case file reading the full police report and any additional information provided. After the CAB members have an understanding of the offense that the youth is being charged with, they bring only the youth into the room. All of the CAB members sit on one side of the table

with the leader in the middle, while the youth sits directly across from them. For this portion of the process, the leader of the CAB explains what the process is going to look like, and first tries to get to know the youth by asking questions such as, “what do you enjoy doing in your free time?” or “tell me about your likes and dislikes.” This initial interaction is intended to provide a welcoming and trustworthy environment for the youth before getting into the details of the offense that brought them to diversion.

Following the discussion with the youth, the guardian is brought into the room, providing them with the opportunity to share their knowledge of the situation and how it has affected their family, along with any other information they feel the CAB members should know when making a contract decision for their child. From my experience, the portion of the interview process with the guardian is the most intense and uncomfortable because, more often than not, they take their personal life issues out on the CAB members as well as frustrations they have faced with the juvenile justice system. I found when conversations begin getting heated and move away from issues surrounding the youth's offense, it is important to remind the guardian that CAB members are all volunteers from the community and as a collective we are here to discuss the youth and not other issues. After the interview process is complete, the CAB discusses a potential contract, gets it approved by the supervisor, and then presents it to the client. If both the youth and guardian agree to the specific contract, the process is complete.

### ***Data Collection Methods***

#### **Participant Observation in South Africa**

I engaged in ethnographic participant observation in South Africa as a data collection method (Creswell, 2009), which allowed me to participate with the NGO along with making observations at different programs. While engaging in participant observation I took detailed,

handwritten notes in my field journal. Within my notes, I focused on documenting the various settings, activities individuals were engaging in, behaviors and attitudes towards particular subjects and conversations, and the relative availability of resources.

### **Interviewing**

In addition to participant observation, I also employed qualitative ethnographic interviews in Cape Town, South Africa and Tacoma, Washington. The purpose of using ethnographic interviews as a method was to hear particular individual's insight and perspectives on issues present in their workplace and experiences with children's rights. To conduct these interviews, I had to go through the process of identifying whom to interview, reaching out and scheduling the interviews, developing interview questions, conducting the actual interview, and following up with any questions after the interview if needed.

A part of my study abroad in Cape Town, South Africa included the space and time to meet Albie Sachs, a former constitutional court judge in South Africa. As a collective group, eleven other students, two professors, and I were invited to Sachs' personal house on Tuesday, September 19<sup>th</sup>, 2018. The house was located on the waterfront in Cape Town, where we were able to conduct an informal interview with him. Students developed their own questions for Sachs that were asked during our time at his house. Further, this allowed for conversation surrounding his personal story, work background and accomplishments, and outlook on his country. Sachs' also provided us with a copy of his new book, "We, the People: Insights Of An Activist Judge", which provided a broader context and background of Sachs' life and the transformation he has made in South Africa.

In Tacoma, Washington, I interviewed a juvenile probation officer, local to the Puget Sound region, named Steve on Wednesday, March 28<sup>th</sup>, 2018. I originally developed nine

interview questions, but due to overlap in answers I only ended up asking six ethnographic interview questions. This interview process lasted an hour and fifteen minutes. I did not audio-record my interview session with Steve, but rather took hand-written, detailed notes and captured direct quotes. After my interview with Steve was complete, I transcribed my notes.

### ***Data Analysis***

#### **Coding and Data Analysis**

I relied upon Saldaña's model for coding qualitative data (Saldaña, 2009). At the beginning of this process, I first took all my hand-written interview and field notes and typed the transcripts into individual documents. After that was completed, I began Saldaña's (2009) first cycle coding process.

The first cycle coding process focuses on simple coding methods used to sort through the data at the surface level (Saldaña, 2009). Here I applied attribute coding individually on all of the transcripts. I went through and identified and highlighted the when, where, and how to reveal the basic information from each transcript. Next, I did the same process with descriptive coding, which focuses on a word that captures what is being observed or talked about. Then I moved onto evaluation coding, which captures policy recommendations. Finally, I conducted holistic coding where I used the same processes of identifying and color-coding, but this entailed chunking data to reveal one code that would represent a summary of a specific interview question or a particular site observation. An example from first cycle coding that emerged was that a United States citizen said, "Yes, children's rights are skimmed over and youth are taken advantage of in our community because they do not know the rules, they just do as told", while a South African citizen said, "we included extensive children's rights in our Constitution, but what is needed at this point is the will for it to be implemented," From this, I came up with the code of

“implementation of children’s rights needed” and applied it throughout the process of analyzing my data.

After completing the first cycle phase I moved onto Saldaña’s (2009) second cycle phase to conduct a deeper analysis of my data, thus generating more in-depth codes. This allowed me to gain a better understanding of the data beyond the surface level. Here I began with patterned coding, which encompasses pulling together summaries from initial coding into smaller themes. After that was completed, I moved onto theoretical coding with the purpose of revealing broader themes that were universal to my research (Saldaña, 2009).

Following the coding process, I created a table with multiple columns and rows to keep track of all the different codes and categories that evolved through the different coding methods discussed above. To do this, I sorted through my marked up raw data collection and identified all the codes and inserted them into the table. This allowed me to keep track of everything by being able to see it all in one place, which facilitated the generation of themes. In the following section, I present the findings of my analysis based on the coding process described here.

## **Findings**

### ***South Africa Theme #1: The Post-Apartheid Concern***

The first theme that I came across in South Africa was the post-Apartheid concern. While Apartheid no longer exists in South Africa, all of the outcomes are still present. Black communities are still living under institutionalized racism and structural inequality seen through class disparities and the education system. Through my observations and interactions at different schools in Philippi Township, as well as my time spent living and exploring around the City of Cape Town, I could instantly see the inequities present in black communities. The vast majority of black individuals reside in the townships that were purposely separated from direct access to

resources. In the townships I observed overcrowded shacks made out of tin and cardboard with no access to running water or heat. There were lines of portable toilets in certain locations of the townships. The government is supposed to empty them twice a week, but the individuals are lucky if they get emptied once a week. Because there are so many people living in the townships, the portable toilets get filled within the first couple hours of being emptied, resulting in no place to use the bathroom for the rest of the week.

As Sachs explained, "South Africa faces high levels of crime, corruption, unemployment, and inequalities." Ukunika Abantwana, the NGO I volunteered at while in South Africa, explained to me that for children, walking to and from school is one of the most difficult parts of their day because of the risk of rape, murder, and abduction. Because a majority of the NGOs that provide resources to students in the townships operate after school hours, they have struggled with children returning home safely. In particular, the after-school program held at the primary school by Ukunika Abantwana has had many kids abducted walking home after their program. To help eliminate that issue, Ukunika Abantwana started filling up their van with children and driving them half way home.

While all of these issues are taking place, I found the younger generation is struggling with understanding the Constitutional rights afforded to them in their country. In particular, I observed this during my time with the Learning Year Program at Ukunika Abantwana, which works with high school and college-aged students. They were collectively struggling with why they are living and experiencing life as they are in the townships they come from when the South African Constitution expressly grants them rights to basic nutrition, health care, social services, and education. However, this is not to say that they are not optimistic about their future because "...black youth feel 'enabled' and they express a sense of connectedness to themselves and their



future. The new political dispensation resulted in an awareness of patriotism and a sense of ownership concerning their country” (Steyn, Badenhorst, & Kamper, 2010, p.170).

***South Africa Theme #2: The Implementation of the Constitution Needed***

The implementation of South Africa's Constitution is what is now needed for the country moving forward. During my interview with Sachs, he said, “Writing the Constitution made South Africa a country. The territory has been there, but only to the whites.” The creation of the Constitution was a radical step forward for South Africa because they now have a document explicitly outlining individual rights that are equal and applied to all races, not just whites. However, because of the history of Apartheid, South Africa has a long way to go to be able to ensure all of these rights are equitably instituted.

The right to education is an example of an individual right that is outlined in South Africa's Constitution, but is not enforced. Sachs said, “South Africa needs to pioneer a functioning method of education because currently 25% of kids get a really good education in private schools and some public schools located in the city, 25% of kids get a reasonable education, and 50% of kids get a horrible education.” The 50% of kids who get a horrible education are the ones who go to township schools. There is a conflict over vital resources within the education system in the townships, seen through my observation of a lack of teachers, limited learning supplies such as books and calculators, a lack of sports fields or after school activities, and improper building structures to foster a learning environment. However, when driving by the schools located in the city, I was able to observe the sporting fields and recreational areas, covered parking areas for the teachers, and buildings that were constructed to access functioning heat and water.

Through the individuals I engaged with at the NGO, everyone felt that people's mindsets had led to racism and segregation, and that to move away from the current situation, people's mindsets are going to have to transform. Moreover, I realized that NGOs work at the micro level trying to fill the gaps that the government fails to address. However, without the economic and political support needed, the NGOs have a limited capacity to sustain over the longer term to make these changes. Transformation is still needed in South Africa. I found Sachs and young adults in the townships feel change can happen through using the Constitution as a structure and framework to allow individuals to speak their minds and continue the fight for change.

***United States Theme #1: The Need for Youth Support Structures***

The first theme that emerged in the United States was the need for additional youth support structures to protect children's rights in the juvenile justice system. As discussed in the literature review, the United States is the only country that has not adopted a uniform standard on children's rights. Through my interview with Steve, the juvenile probation officer, and my participant observation of a diversion program, it became evident that youth are not always aware of their rights and even if they are aware, a higher authority such as a parent or a police officer sometimes violates those rights. As Steve put it, "Youth need more support structures that provide them with a further voice to ensure nothing is infringing on the youth's rights."

Youth of color are in particular need of more support structures. For example, Steve responded to a question regarding patterns existing with gender, age, and ethnicity by saying, "Pierce County has a population of 30% non-white youth, but in the juvenile justice system there is over 50% of non-white youth. In regards to patterns existing, there are definitely patterns to all of it, in particular the ethnicity category." I have witnessed this disparity while volunteering at the juvenile court with the diversion program. A majority of the cases diversion sees are youth of

color and are outcomes from actions that took place at school. Further, one family from diversion told me, “we have never felt black until we moved to Tacoma.” This led to the confirmation that the school-to-prison pipeline is present in the South Puget Sound region. Steve explained,

I understand the notion of the school-to-prison pipeline and I feel that it is very closely related to my work and any work in the juvenile justice system, no matter the geographical location. One reason I feel this way is because my caseload extremely fluctuates depending upon if school is in session or not.

### ***United States Theme #2: The Shift to Rehabilitation***

The second theme that emerged from the data collected in Tacoma, Washington was the shift to rehabilitation with a focus on positive youth development. This means that the juvenile justice system and communities need to put emphasis on the rehabilitation of the youth and community rather than punishment. Statistics provide that once a child is exposed to the detention center environments, children are more likely to revert back to the system as adults. Steve explained, “We should have more of a progressive court with more diversions and even pre-diversions. Expanding these resources would help aid youth away from the system before they get entrenched in the system.”

From my experience volunteering at diversion, I gained knowledge about the resources and programs to assign youth for their diversion contracts. There are only a few programs that specifically promote rehabilitation: Ship Builders, Paint Connect, and 7th Cycle, to name a few, all in some way focus on providing youth with mentorship, life skills, and connections moving forward. Because these are non-profit organizations, they have limited capacity and significant requirements for the youth to meet, resulting in youth being assigned to non-rehabilitative places, such as community service.

### **Discussion**

In light of the different themes that emerged out of this research, there is a gap between the existence of children's rights and the implementation of those rights in Cape Town, South Africa and Tacoma, Washington. In Cape Town, South Africa, there are varied perspectives on the democratic government and Constitution depending on one's race. Overall, Blacks are still experiencing all the lingering outcomes from the Apartheid rule, but they have hope for their future because their race is now represented in the government. The rights-based Constitution present in South Africa has allowed for a dramatic change in laws and policies, in an effort to allow equal opportunities for all, no matter their skin color. While the implementation of individual rights is needed, black South African youth feel they can continue their fight for equality because the Constitution provides a framework for their voices to be heard and change to be implemented.

South Africa's rights-based Constitution seems transferable to the local context of Tacoma, Washington. This could aid in ensuring the fair treatment of youth involved in the juvenile justice system. Focusing on children's rights and the development of additional programs in alignment with such rights will help meet the needs of children in general and youth of color in particular.

In order to implement future policies, the United States' current juvenile and criminal justice systems will have to turn the focus to proactive interventions, rather than reactive. The utilization of diversion should be expanded. There should be more conversations and events surrounding children's rights to bring awareness and knowledge to these issues. Lastly, the creation of a specific Youth Bill of Rights could be an effective solution in meeting children's needs in the United States. It would foster positive change in the education and juvenile justice

systems by providing youth a voice, such as in South Africa, and holding the country more accountable to their actions and treatment.

Through my examination of children's rights and support structures for youth of color, I have identified important and unaddressed issues in the United States. South Africa serves as an example of the needed balance between individual rights and enforcement in a democratic country. This research offers a pathway towards increased support for youth of color in marginalized communities through the development of youth support structures.

Taking into consideration future studies, globally and locally there needs to be more in-depth engagement and interviews with youth about their understanding of their rights specifically within the juvenile justice system. To gain more perspectives it would be useful to incorporate a larger number of participants and participants of all different ethnicities. Also, it would be beneficial to study more countries, in order to examine their way of implementing children's rights. Moreover, I would recommend reaching out to non-profits, such as the Annie Casey Foundation, that are currently doing research on the juvenile justice systems and children's rights to be able to collaborate and build off of their knowledge and understanding of these issues.

### **Conclusion**

When examining the inequalities and inequities that exist concerning youth, these issues are occurring not only in impoverished, developing countries, but also developed countries. South Africa has created a rights-based Constitution for the citizens, while the United States, a thriving first world country, still struggles to meet the needs of its youth. The bottom line is that reform needs to occur, not just on the micro level, but also on a global level. Until our local and national systems act on behalf of children, nothing will change and these inequalities through the school-to-prison pipeline and incarceration will continue to plague communities.

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